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AN ACT

RELATING TO FINANCE; AUTHORIZING MUNICIPALITIES TO IMPOSE FEES FOR USE OF A MUNICIPAL EVENT CENTER AND TO IMPOSE A SURCHARGE ON REVENUES ARISING FROM ACTIVITIES AT A MUNICIPAL EVENT CENTER; PERMITTING MUNICIPALITIES TO ISSUE REVENUE BONDS; PROVIDING LEGAL REMEDIES; CREATING AN EXEMPTION FROM THE GOVERNMENTAL GROSS RECEIPTS TAX FOR MUNICIPAL EVENT CENTER RECEIPTS; ENACTING A NEW SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT; ENACTING THE MUNICIPAL EVENT CENTER FUNDING ACT; PROVIDING DISTRIBUTIONS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--MUNICIPAL EVENT CENTER SURCHARGE.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the public project revolving fund administered by the New Mexico finance authority in an amount equal to seventy-five percent of the amount of event center surcharge proceeds transferred to the tax administration suspense fund pursuant to the Municipal Event Center Funding Act.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the energy, minerals and natural

1 resources department in an amount equal to twenty-four
2 percent of the amount of event center surcharge proceeds
3 transferred to the tax administration suspense fund pursuant
4 to the Municipal Event Center Funding Act.

5 C. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the cultural affairs department in an
7 amount equal to one percent of the amount of event center
8 surcharge proceeds transferred to the tax administration
9 suspense fund pursuant to the Municipal Event Center Funding
10 Act."

11 Section 2. A new section of the Gross Receipts and
12 Compensating Tax Act is enacted to read:

13 "EXEMPTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS
14 RECEIPTS TAX--EVENT CENTER SURCHARGE.--Exempted from the
15 gross receipts tax and from the governmental gross receipts
16 tax are the receipts from selling tickets, parking,
17 souvenirs, concessions, programs, advertising, merchandise,
18 corporate suites or boxes, broadcast revenues and all other
19 products or services sold at or related to a municipal event
20 center or related to activities occurring at the event center
21 on which an event center surcharge is imposed pursuant to the
22 Municipal Event Center Funding Act."

23 Section 3. SHORT TITLE.--Sections 3 through 11 of this
24 act may be cited as the "Municipal Event Center Funding Act".

25 Section 4. FINDINGS AND PURPOSE.--

1 A. The legislature finds that:

2 (1) the costs of acquiring land for and of
3 designing, purchasing, constructing, remodeling,
4 rehabilitating, renovating, improving, equipping, furnishing,
5 operating and maintaining municipal event centers have
6 increased to a level that local financial resources are
7 inadequate to meet all of the costs;

8 (2) functional and modern municipal event
9 centers are essential in retaining and attracting cultural,
10 educational, entertainment and sporting events to
11 municipalities and the state and are essential for the
12 economic development and prosperity of municipalities and the
13 state; and

14 (3) even after using local financial
15 resources, municipalities need additional means to provide
16 complete funding for functional and modern municipal event
17 centers.

18 B. The purpose of the Municipal Event Center
19 Funding Act is to provide an additional method of accessing
20 the capital markets to meet the need for a complete funding
21 package for functional and modern municipal event centers.

22 Section 5. DEFINITIONS.--As used in the Municipal Event
23 Center Funding Act:

24 A. "bonds" means revenue bonds issued by a
25 municipality to pay for some or all of the costs of acquiring

1 land for and designing, purchasing, constructing, remodeling,
2 rehabilitating, renovating, improving, equipping and
3 furnishing a municipal event center;

4 B. "chief executive officer" means the mayor or
5 chief administrative officer of a municipality when
6 designated in writing by the mayor to perform duties required
7 by the Municipal Event Center Funding Act;

8 C. "debt service payments" means rentals,
9 receipts, fees or other charges paid to a municipality for
10 the rights to use, operate or manage a municipal event center
11 by any person, corporation or other entity;

12 D. "event center revenues" means rentals,
13 receipts, fees or other charges imposed by and paid to a
14 municipality pursuant to the Municipal Event Center Funding
15 Act for the rights to use, operate or manage a municipal
16 event center by any person, corporation or other entity;

17 E. "event center surcharge" means a surcharge to
18 be included in each vendor contract on tickets, parking,
19 souvenirs, concessions, programs, advertising, merchandise,
20 corporate suites or boxes, broadcast revenues and all other
21 products or services sold at or related to the municipal
22 event center or related to activities occurring at the event
23 center;

24 F. "governing body" means the council, commission
25 or other group of elected officials of a municipality in

1 which is vested the legislative authority of a municipality;

2 G. "municipal event center" means an event center
3 providing seating for a minimum of four thousand people,
4 including land, buildings and related improvements, primarily
5 designed and intended for cultural, educational,
6 entertainment and sporting events, but does not include a
7 civic or convention center;

8 H. "municipality" means a political subdivision of
9 the state, organized and operating under a home-rule charter
10 or the Municipal Code;

11 I. "vendor" means every person, corporation,
12 partnership or other entity, including a division or
13 department of a municipality, providing products or services
14 sold at or related to the municipal event center; and

15 J. "vendor contract" means a contract, agreement
16 or other written arrangement between a municipality and a
17 vendor pursuant to which the vendor provides products or
18 services sold at or related to the municipal event center.

19 Section 6. AUTHORIZATION OF SURCHARGE AND OTHER FEES--
20 USE OF PROCEEDS--TRANSFER.--

21 A. A municipality in which a municipal event
22 center is located may establish by ordinance an event center
23 surcharge of not less than five percent of each vendor
24 contract entered into by that municipality. As otherwise
25 established by that municipality, the event center surcharge

1 may be any percentage greater than five percent of each
2 vendor contract entered into by the municipality.

3 B. A municipality shall include an event center
4 surcharge in the terms of each vendor contract into which it
5 enters. A chief executive officer of a municipality shall
6 sign each vendor contract into which that municipality
7 enters.

8 C. A municipality may establish charges and fees
9 deemed necessary by the governing body or the chief executive
10 officer for the use, operation or management of a municipal
11 event center by a person, corporation or other entity.

12 D. From the proceeds of the event center
13 surcharge, an amount equal to two percent of each vendor
14 contract entered into by the municipality shall be
15 transferred monthly by the municipality that established the
16 event center surcharge to the tax administration suspense
17 fund.

18 E. A municipality shall establish a fund for
19 construction, renovation, operation, equipment, maintenance
20 and improvement of a municipal event center for deposit of
21 all event center revenues and event center surcharge proceeds
22 that exceed the required debt service payments, except for
23 event center surcharge proceeds transferred to the tax
24 administration suspense fund pursuant to this section. Money
25 in the fund may be used to pay:

- 1 (1) debt service payments;
- 2 (2) costs of operating a municipal event
3 center during the life of the bonds issued by the
4 municipality pursuant to the Municipal Event Center Funding
5 Act;
- 6 (3) costs of constructing, renovating,
7 equipping, maintaining or improving that municipal event
8 center; or
- 9 (4) costs of collecting or administering the
10 event center surcharge.

11 Section 7. COLLECTION OF EVENT CENTER SURCHARGE--
12 REMITTANCE TO MUNICIPALITY.--

13 A. Upon the sale of a product or service subject
14 to the event center surcharge, a vendor shall collect the
15 event center surcharge from the purchaser of that product or
16 service on behalf of the municipality and shall act as a
17 trustee for the surcharge receipts. A purchaser of a product
18 or service subject to the event center surcharge shall be
19 charged separately for the event center surcharge from the
20 cost of the product or service, or the vendor shall institute
21 accounting controls or procedures sufficient to identify the
22 amount of the surcharge owed to a municipality for each sale,
23 transaction or exchange subject to the surcharge. Receipts
24 from the event center surcharge shall be remitted by a vendor
25 to the treasurer of the municipality in which the municipal

1 event center at which the vendor sold the product or service
2 is located no later than the tenth day of the month following
3 the collection of the surcharge.

4 B. A treasurer of a municipality shall deposit
5 municipal event center revenues and event center surcharge
6 receipts in a separate account and act as trustee of the
7 revenue on behalf of bondholders pursuant to the Municipal
8 Event Center Funding Act so long as any bonds remain
9 outstanding.

10 Section 8. AUDITS.--A municipality shall provide by
11 ordinance a method to audit or otherwise ensure that vendors
12 subject to the event center surcharge collect and remit to
13 the treasurer of the municipality the full amount of the
14 surcharge receipts due to the municipality.

15 Section 9. ENFORCEMENT--PENALTIES.--

16 A. An action to enforce the imposition and
17 collection of an event center surcharge by a vendor may be
18 brought by a municipality.

19 B. A district court may issue an appropriate
20 judgment, order or remedy to enforce the provisions of a
21 vendor contract.

22 C. A judgment issued by a district court requiring
23 event center surcharge receipts to be paid to a municipal
24 treasurer by a vendor shall also award interest at an annual
25 rate of twelve percent on past due amounts, attorney fees and

1 costs to a municipality.

2 Section 10. ISSUANCE OF BONDS.--

3 A. A municipality may issue revenue bonds, in
4 accordance with the procedures set forth in Sections 3-31-3
5 through 3-31-7 NMSA 1978, to acquire land for and to design,
6 purchase, construct, remodel, renovate, rehabilitate,
7 improve, equip or furnish a municipal event center.

8 B. Revenue bonds issued by a municipality may be
9 secured by event center revenues, event center surcharge
10 receipts or gross receipts tax revenues distributed to that
11 municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA
12 1978.

13 C. An action shall not be brought questioning the
14 legality of the pledge of event center revenues, event center
15 surcharge receipts or gross receipts tax revenues, bonds
16 issued pursuant to the Municipal Event Center Funding Act,
17 issuance of those bonds, an event center surcharge included
18 in a vendor contract or any other matter concerning the bonds
19 after thirty days from the date of publication of the
20 ordinance authorizing issuance of the bonds and the pledging
21 of event center receipts, event center surcharge receipts or
22 gross receipts tax revenues of a municipality to make debt
23 service payments.

24 D. The legislature or a municipality shall not
25 repeal, amend or otherwise modify any law or ordinance that

1 adversely affects or impairs the event center surcharge or
2 any bonds secured by a pledge of the event center revenues,
3 event center surcharge receipts or gross receipts tax
4 revenues, unless the bonds have been paid in full or
5 provisions have been made for full payment.

6 Section 11. CUMULATIVE AND COMPLETE AUTHORITY.--The
7 Municipal Event Center Funding Act shall be deemed to provide
8 an additional and alternative method for obtaining funding
9 for a municipal event center, establishing and collecting
10 event center revenues and the event center surcharge and
11 completing the acts authorized pursuant to that act, and
12 shall be regarded as supplemental and additional to powers
13 conferred by other laws of the state and shall constitute
14 full authority for the exercise of powers granted pursuant to
15 the Municipal Event Center Funding Act.

16 Section 12. LIBERAL INTERPRETATION.--The Municipal
17 Event Center Funding Act shall be liberally construed to
18 carry out its purpose.

19 Section 13. SEVERABILITY.--If any part or application
20 of the Municipal Event Center Funding Act is held invalid,
21 the remainder or its application to other situations or
22 persons shall not be affected.

23 Section 14. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect
25 immediately.
